Article 16
Settlement of Investment Disputes
between a Contracting Party and an Investor
of the Other Contracting Party

1. For the purposes of this Article, "investment dispute" is a dispute between a Contracting Party and an investor of the other Contracting Party that has incurred loss or damage by reason of, or arising out of, an alleged breach of any obligation of the former Contracting Party under this Agreement with respect to the investor of that other Contracting Party or its investments in the Area of the former Contracting Party.

2. Subject to subparagraph 7(b), nothing in this Article shall be construed so as to prevent an investor who is a party to an investment dispute (hereinafter referred to in this Article as "disputing investor") from seeking administrative or judicial settlement within the Area of the Contracting Party that is a party to the investment dispute (hereinafter referred to in this Article as "disputing Party").

3. Any investment dispute shall, as far as possible, be settled amicably through consultations between the disputing investor and the disputing Party (hereinafter referred to in this Article as "the disputing parties").

4. If the investment dispute cannot be settled through such consultations within six months from the date on which the disputing investor requested in writing the disputing Party for consultations, the disputing investor may, subject to paragraph 7, submit the investment dispute to one of the following international arbitrations:

(a) arbitration in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of Other States, done at Washington, March 18, 1965 (hereinafter referred to in this Article as "ICSID Convention"), so long as the ICSID Convention is in force between the Contracting Parties;

(b) arbitration under the Additional Facility Rules of the International Centre for Settlement of Investment Disputes, provided that either Contracting Party, but not both, is a party to the ICSID Convention;

(c) arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law; or

(d) if agreed with the disputing Party, any arbitration in accordance with other arbitration rules.

5. Each Contracting Party hereby consents to the submission of an investment dispute by a disputing investor to arbitration set forth in paragraph 4 chosen by the disputing investor.

6. Notwithstanding paragraph 5, no investment disputes may be submitted to arbitration set forth in paragraph 4, if more than three years have elapsed since the date on which the disputing investor acquired or should have first acquired, whichever is the earlier, the knowledge that the disputing investor had incurred loss or damage referred to in paragraph 1.

7. No claim may be submitted to arbitration under this Article unless:

(a) the disputing investor consents in writing to arbitration in accordance with the procedures set out in this Article; and

(b) the disputing investor waives in writing any right to initiate or continue before any administrative tribunal or court of justice under the law of either Contracting Party, or other dispute settlement procedures, any proceedings with respect to any measure alleged to constitute a breach referred to in paragraph 1 before any judgment or award has been delivered on the subject matter of the dispute under the abovementioned mechanism.

8. The waiver provided pursuant to subparagraph 7(b) shall cease to apply where the arbitral tribunal rejects the claim on the basis of a failure to meet the requirements of paragraph 4, 6 or 7, or on any other procedural or jurisdictional grounds.

9. Notwithstanding subparagraph 7(b), the disputing investor may initiate or continue an action that seeks interim injunctive relief that does not involve the payment of monetary damages before an administrative tribunal or court of justice under the law of the disputing Party.

10. An arbitral tribunal established under paragraph 4 shall decide the issues in dispute in accordance with this Agreement and applicable rules of international law.